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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/703,548	11/01/2000	Minoru Saito	51270.0245 664	1990

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EXAMINER

HINDI, NABIL Z

ART UNIT

PAPER NUMBER

2655

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/703,548	Applicant(s) Saito et al
Examiner Nabil Hindi	Art Unit 2655



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- 4) Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1, 2, 4, and 5 is/are rejected.
- 7) Claim(s) 3 and 6 is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) Other: _____

Art Unit: 2653

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Onigata et al (5508991).

The claims are drawn to an alternative limitation reflected light detection signal “or” the push pull signal wherein only one of the limitation must be shown to meet the claimed invention. The end result of “suppress” apply to the push pull signal and not to the alternative reflected light signal. The reference shows an optical disk recording and reproducing apparatus comprising a disk

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having wobbled grooves fig 4, a push pull signal generating means based on a reflected light beam 181, 182, 183, and 17, a variable gain means 184 to vary the gain of the reflected light signal 184 and a wobbling signal generating means 18a.

With respect to the limitation of claim 2. The reference shows the use of a variable gain amplifier 183 varying the gain of a reflected light beam from the photo detector 17.

Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Yokoi et al (6487149).

The claims are drawn to an alternative limitation reflected light detection signal "or" the push pull signal wherein only one of the limitation must be shown to meet the claimed invention. The end result of "suppress" apply to the push pull signal and not to the alternative reflected light signal. The reference shows an optical disk recording and reproducing apparatus comprising: a disk having wobbled tracks fig 10, a push pull signal generating means based on a reflected light S7, a variable gain means 73a-73d for varying the gain of a reflected light beam from the photo detection means 71 meeting the claimed invention.

With respect to the limitation of claim 2. The reference discloses the use of a variable gain means 73a-73d to vary the reflected light beam A1-D1.

With respect to the limitation of claim 4. The reference discloses the use of wobbling signal outputted by element 76.

With respect to the limitation of claim 5. The reference discloses the use of a slicer 78a to output a pre-pit signal.

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Claim 3 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the cited prior art discloses the use of a pre-pit signal detection having the claimed elements nor the use of a time axial length in varying the gain.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 5130970.

Any inquiry concerning this communication should be directed to NABIL.HINDI at telephone number 308.1555

NABIL.HINDI
PRIMARY EXAMINER
GROUP 2653
2653